



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,604	09/26/2005	Daniela Bourges-Waldeg	CH920010067US1	7958
877 7590 03/04/2009 IBM CORPORATION, T.J. WATSON RESEARCH CENTER P.O. BOX 218 YORKTOWN HEIGHTS, NY 10598				
EXAMINER SEYE, ABDOU K				
ART UNIT		PAPER NUMBER		
2194				
MAIL DATE		DELIVERY MODE		
03/04/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/525,604

**Applicant(s)**

BOURGESS-WALDEGG ET AL.

**Examiner**

Abdou Karim Seye

**Art Unit**

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) 1 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 23 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date 02/16/2008.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application.  
6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claim 1 is pending in this application.

#### Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 1 of the instant application (executing an application ) is

provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5-11 of copending Application No. 12123620 (executing an application). Although the conflicting claims are not identical, they are not patentably distinct from each other. The only difference between the instant application and the copending application is that claims 5-11 of the copending Application No. 12123620 are dependent claims of the independent claim 1. For example, claim 1 of the instant application includes claimed elements that are the same as the combined claimed elements of claim 1 and 5-11 of the copending application No. 12123620 .

This is a provisional obviousness-type double patenting because the conflicting claims have not in fact been patented.

#### **Claim Rejections - 35 USC § 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following terms lack antecedent basis:

- (i) "said second electronic device", line 13; "said other electronic device" , line 23, claim 1.

B. The following claims language is unclear and indefinite:

(i) As to claim 1, It is cited, in lines 8-13 "said first electronic device comprising: ....application data.... central control unit, interface ..... synchronization entity ....". It is unclear what applicant intends to claim, because these claimed elements are duplication of claimed elements already included in "the first electronic device" in line 1-7 of the claim . Applicant is required to remove all duplications in response to this office action.

(ii) Claim 1 lines 18-19, it is not clearly understood what is meant by "said interface" because the claim recites interface in both first electronic device and another electronic device, and it is not clear if the interface recited in the claim refer to the interface in the first electronic device, in another electronic device, or in both?

(ii) Claim 1 line 25, it is not clearly understood what is meant by "said synchronization entity" because the claim 1 recites synchronization entity in both first electronic device and another electronic device, and it is not clear if said synchronization entity recited in the claim refer to the synchronization entity in the first electronic device, in another electronic device, or in both?

(ii) Claim 1 lines 26 and 28, it is not clearly understood what is meant by "said method call" because the claim 1 recites method call in both first electronic device and another electronic device, and it is not clear if said method call recited in the claim refer to the method call in the first electronic device, in another electronic device, or in both?

Appropriate corrections are required.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is rejected under USC 101 for being non statutory because the claimed "electronic device" appears to be reasonably interpreted by one of ordinary skill in the art as software, per se, since the application data, the central control unit, the interface and the synchronization entity would reasonably be interpreted by one of ordinary skill in the art as software, per se. As such, it is believed that the electronic device of claim 1 is reasonably interpreted as functional descriptive material, per se, failing to be tangibly embodied or include any recited hardware as part of the device.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim1 is rejected under 35 U.S.C. 103 (a) as unpatentable over Maciel (US 20020095471) in view of Sheard et al (US 6453356), and further in view of Vaha Sipila et al. (20010054092).

10. As to claim 1, Maciel teaches the invention substantially as claimed including an a first electronic device (10, FIG. 1) for executing an application (100, FIG. 1), comprising:

application data (102, FIG. 1) upon execution of said application,

a central control unit (120, FIG. 1; paragraph 5) for processing said application data according to a locally generated method call (111, FIG. 1; abstract; paragraph 5),

an interface for transmitting messages to another electronic device (250, FIG. 5; wherein the MPI is the interface),

said first electronic device comprising :

the application data upon execution of said application (108, FIG. 5; paragraph 40),

said central control unit for processing said application data according a locally generated method call (paragraph 5),

said interface for transmitting messages to said second electronic device (20, FIG. 5; paragraph 42),

said another electronic device (20, FIG. 5) comprising :

a copy of said application data (206, FIG. 5),

another interface (240, FIG. 10; paragraph 42; wherein the socket API is another interface) for receiving messages from said first electronic device,

deriving a method call (111, FIG. 1 "system call") ; and

another central control unit (20, FIG. 5; wherein receiving host are well known in the art to include a central control unit) for processing said copy of application data,

a register (132/123, FIG. 3; paragraph 9) wherein,

said method call is an input action (paragraph 8; wherein the "call made from the application" is the input command),

said method application data represent a state of said application (paragraph 74; wherein "the transfer operation completion" marks the state of the application), and

said method call causing a change to said application data when being processed (paragraph 69),

11. Maciel does not explicitly teach a synchronization entity for generating a description of said method call and for passing said description , for receiving said description, a log for storing said description, a rollback entity for reading said log and for verifying said application data, and a session clipboard for shared use.



12. Sheard teaches a synchronization entity/adapter for generating a format/description (abstract; Fig. 1; col. 5, lines 42-67 and col. 6, lines 1-17) for passing said description (abstract; Fig. 6), for receiving said description (abstract; Fig. 6), a log (274, Fig. 9), a rollback (col. 3, lines 7-12) , and verifying application data (Fig. 8; "validator").

13. Vaha teaches a clipboard for shared use of data among processes/applications (paragraph 31).

14. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Maciel, Sheard and Vaha, because the synchronization entity, the log and rollback and the sharing clipboard mechanism from Sheard and Naha will improve data integrity of Jurova's system by providing monitoring of the data exchange among applications in order to reduce the loss of data.

### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdou Karim Seye whose telephone number is 571-270-1062. The examiner can normally be reached on Monday - Friday 8:30 - 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng can be reached on (571)272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195

/A. K. S./  
Examiner, Art Unit 2194/A. K. S./  
Examiner, Art Unit 2194